

June 22, 2007

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WT Docket Nos. 96-86, 06-150 and 06-169; PS Docket No. 06-229
Written Ex Parte

Dear Ms. Dortch:

In their reply comments in the above-captioned proceeding, Access Spectrum, LLC, Dominion 700, Inc., Harbor Guardband, LLC, and Pegasus Communications Corporation (collectively, “Upper 700 MHz Licensees”) proposed that the Commission grandfather the license held by Radiofone PCS in the Gulf of Mexico,¹ in a manner consistent with Radiofone’s May 23 comments.² Under this approach, the band plan in the Gulf would differ from the band plan for the rest of the country, which would not have a detrimental effect on Public Safety because there are no planned state or local public safety operations in the Gulf. To the extent that the FCC would prefer to implement Band Plan 3 (or 4 or 5) nationwide in a homogeneous manner, however, it could instead modify Radiofone’s license as described below. The proposed approach and alternatives described below are consistent with the grandfathering alternatives discussed with respect to PTPMS II in the reply comments of the Upper 700 MHz Licensees. The Commission’s legal authority to modify licenses is also discussed in those reply comments.³

Specifically, Radiofone would exchange its 2 MHz paired B Block license (4 MHz total) in the Gulf of Mexico MEA for the 1 MHz paired A Block (2 MHz total) and the 1 MHz paired B Block (2 MHz total) in the Gulf, as depicted on the attached chart and map.⁴ Radiofone has indicated that it prefers to remain subject to the technical rules that are in place today for the A and B Blocks.⁵ Under this approach, the commercial and Public Safety spectrum would be harmonized with the allocation in the rest of the nation. To make this possible, Access Spectrum agrees to relinquish its A Block license in the Gulf of Mexico.

¹ Reply Comments of Access Spectrum, LLC; Dominion 700, Inc.; Harbor Guardband, LLC; and Pegasus Communications Corporation at 6-10 (filed June 4, 2007) (“Upper 700 MHz Licensees Reply Comments”).

² Comments of Radiofone Nationwide PCS, LLC (filed May 23, 2007) (“Radiofone Comments”).

³ Upper 700 MHz Licensees Reply Comments at 9-10 & Appendix B.

⁴ See Exhibit 1 (attached). In addition to depicting the proposed spectrum exchange, Exhibit 1 also corrects the chart entitled “700 MHz Spectrum Exchange” that appeared on page 2 of Appendix A of the Reply Comments, which erroneously stated that Dominion 700’s pre-swap license is 0 MHz. Dominion 700’s pre-swap license actually is 2 MHz.

⁵ Radiofone Comments at 2.

In the alternative, the Commission could adopt one of the two approaches discussed in Appendix B of the Reply Comments.⁶ The first alternative would require the Commission to modify the Radiofone license by shifting it lower by 1 MHz, from 762-764/792-794 MHz to the new A Blocks at 761-763/791-793 MHz. This configuration would enable the Public Safety allocation to remain aligned with the rest of the country but would decrease the size of the Upper 700 MHz D Block in the Gulf of Mexico from 5 MHz paired to 4 MHz paired. The second alternative would permit the Commission to implement Band Plan 3 without modifying Radiofone's license. This approach would require the Commission to design the Public Safety band in the Gulf MEA as follows (from left to right): a 4 MHz paired block to broadband use, a 1 MHz paired block to internal guard band use, 6 MHz paired block to narrowband use, and another 1 MHz paired block for internal guard band use. This configuration would harmonize the Public Safety's mission-critical narrowband operations nationwide, but would have the effect of reducing the Public Safety broadband allocation by 1 MHz in the Gulf.⁷

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record in the above-referenced proceedings.

Sincerely,

/s/ Ruth Milkman

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⁶ Upper 700 MHz Licensees Reply Comments, Appendix B.

⁷ Exhibit 2 (attached) updates Page 7 of Appendix B of the Reply Comments to include the three possible approaches to grandfathering the Radiofone license in the Gulf of Mexico, consistent with Band Plan 3. In addition, the updated Exhibit clarifies that, under grandfathering proposal number three, public safety's overall allocation will remain the same; however, its broadband allocation will be reduced by 1 MHz paired in Albuquerque, Des Moines, and the Gulf of Mexico.

Exhibit 1

700 MHz Spectrum Exchange									
Upper 700 MHz - A and B Blocks									
Licensee	2000 Census						MHz-pops		
	Pre-swap			Post-swap			Variance		Auction Discount Vouchers
	# of MEAs	MHz	MHz-pops	# of MEAs	MHz ⁽¹⁾	MHz-pops	MHz-pops	% Change	
Pegasus Guard Band	34	2/4	336,080,646	23	2	305,791,020	(30,289,626)	-9.0%	30,289,626
Access Spectrum	23	2/4	259,125,878	24	2	233,563,178	(25,562,700)	-9.9%	25,562,700
PTPMS II	3	2/4	24,611,890	3	2/4	24,611,890	0	0.0%	0
Dominion 700	1	2	17,534,200	1	2	17,534,200	0	0.0%	0
Radiofone PCS	1	4	0	1	4	0	0	0.0%	0
Licenseses - Total	62		637,352,614	52		581,500,288	(55,852,326)	-8.8%	55,852,326
(1) Note that PTPMS II will be "grandfathered" and will continue to hold 4 MHz of spectrum in MEA 21 (Des Moines) and MEA 39 (Albuquerque) regulated as "guard bands". Radiofone PCS will be "grandfathered" and will continue to hold 4 MHz of spectrum in MEA 52 (Gulf of Mexico) and will be regulated as a "guard bands".									
List of Geographies and Corresponding Licensees Post-Swap									
Name of Market	MEA #	Licensee							
Boston	1	Pegasus Guard Band							
New York City	2	Pegasus Guard Band							
Buffalo	3	PTPMS II							
Philadelphia	4	Pegasus Guard Band							
Washington	5	Dominion 700							
Richmond	6	Pegasus Guard Band							
Charlotte	7	Pegasus Guard Band							
Atlanta	8	Access Spectrum							
Jacksonville	9	Pegasus Guard Band							
Tampa-Orlando	10	Pegasus Guard Band							
Miami	11	Pegasus Guard Band							
Pittsburgh	12	Pegasus Guard Band							
Cincinnati	13	Pegasus Guard Band							
Columbus	14	Pegasus Guard Band							
Cleveland	15	Pegasus Guard Band							
Detroit	16	Pegasus Guard Band							
Milwaukee	17	Access Spectrum							
Chicago	18	Pegasus Guard Band							
Indianapolis	19	Pegasus Guard Band							
Minneapolis-St. Paul	20	Access Spectrum							
Des Moines	21	PTPMS II							
Knoxville	22	Pegasus Guard Band							
Louisville	23	Access Spectrum							
Birmingham	24	Access Spectrum							
Nashville	25	Access Spectrum							
Memphis	26	Access Spectrum							
New Orleans	27	Access Spectrum							
Little Rock	28	Access Spectrum							
Kansas City	29	Access Spectrum							
St. Louis	30	Access Spectrum							
Houston	31	Access Spectrum							
Dallas-Fort Worth	32	Access Spectrum							
Denver	33	Access Spectrum							
Omaha	34	Access Spectrum							
Wichita	35	Access Spectrum							
Tulsa	36	Access Spectrum							
Oklahoma City	37	Access Spectrum							
San Antonio	38	Access Spectrum							
Albuquerque	39	PTPMS II							
Phoenix	40	Access Spectrum							
Spokane-Billings	41	Access Spectrum							
Salt Lake City	42	Access Spectrum							
San Francisco	43	Pegasus Guard Band							
Los Angeles	44	Access Spectrum							
Portland	45	Pegasus Guard Band							
Seattle	46	Pegasus Guard Band							
Alaska	47	Access Spectrum							
Hawaii	48	Pegasus Guard Band							
Guam and the Northern Mariana Islands	49	Pegasus Guard Band							
Puerto Rico and U.S. Virgin Islands	50	Pegasus Guard Band							
American Samoa	51	Pegasus Guard Band							
Gulf of Mexico	52	Radiofone PCS							

Major Economic Areas (MEA)

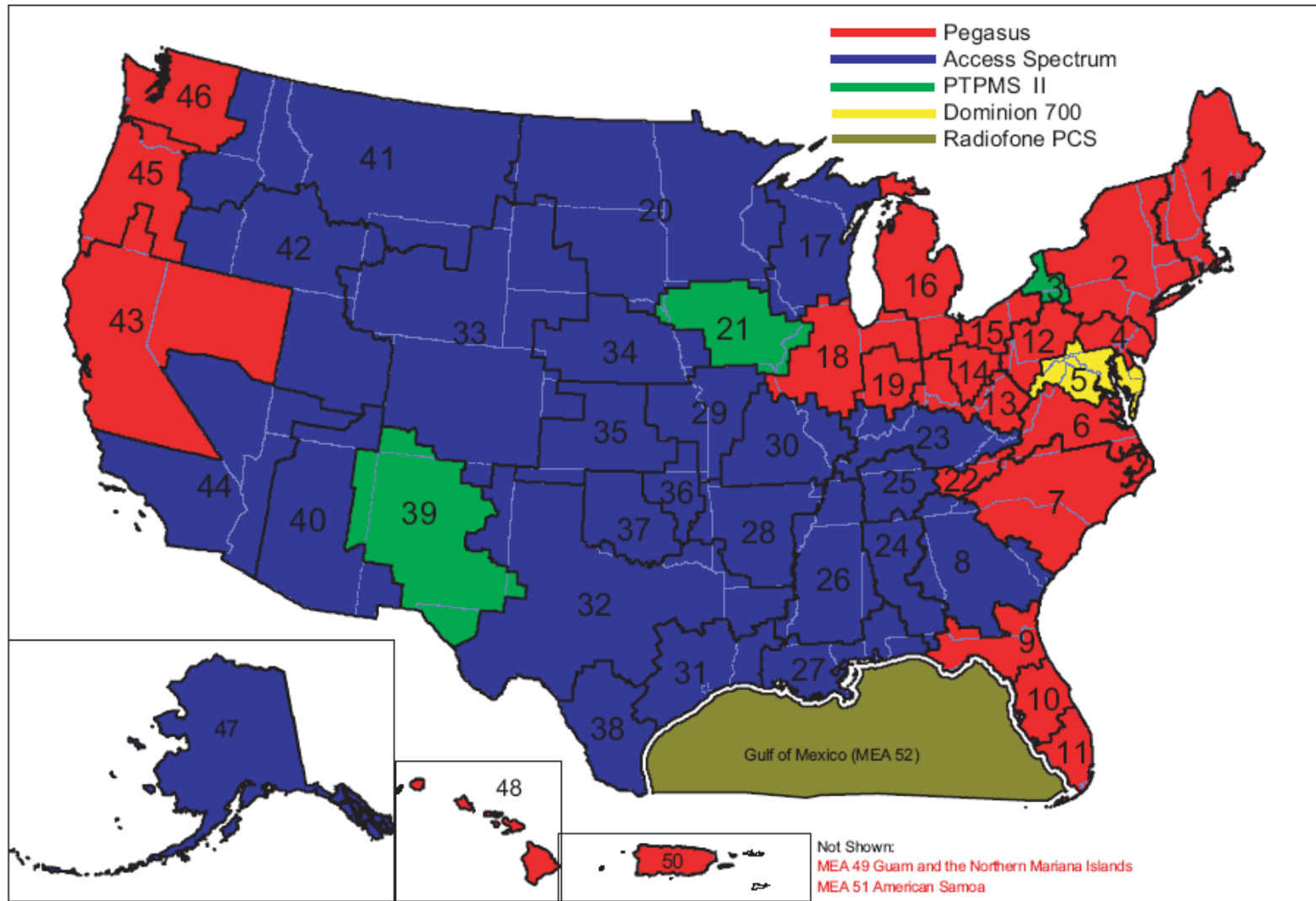
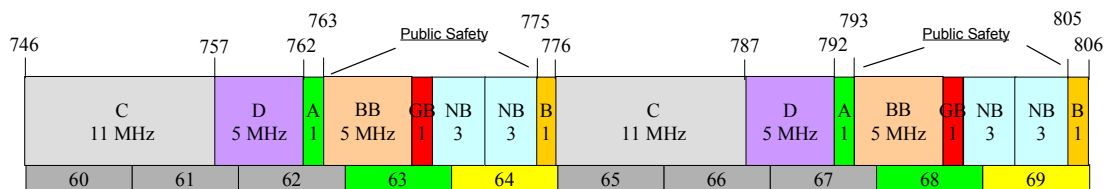


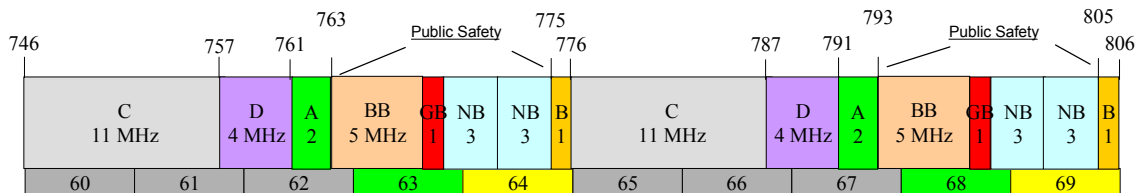
Exhibit 2

Grandfathering Proposal Number	Impact on Public Safety Allocation*	Impact on Commercial Allocation*	Impact on PTPMS II and Radiofone Licenses
1	None	None	Split the B Block licenses into two 1 MHz pairs so that they become the new 1 MHz paired A Block and the new 1 MHz paired B Block licenses in Albuquerque, Des Moines, and the Gulf of Mexico; shift the A Block license so that it becomes the new 1 MHz paired A Block license in Buffalo.
2	None	1 MHz paired reduction in Albuquerque, Des Moines, and Gulf of Mexico ONLY	Shift the B Block licenses so that they become the new 2 MHz paired A Block licenses in Albuquerque, Des Moines, and the Gulf of Mexico; shift the A Block license so that it becomes the new 1 MHz paired A Block license in Buffalo.
3	1 MHz paired reduction in broadband allocation in Albuquerque, Des Moines, and Gulf of Mexico ONLY	1 MHz paired reduction in Buffalo ONLY	None

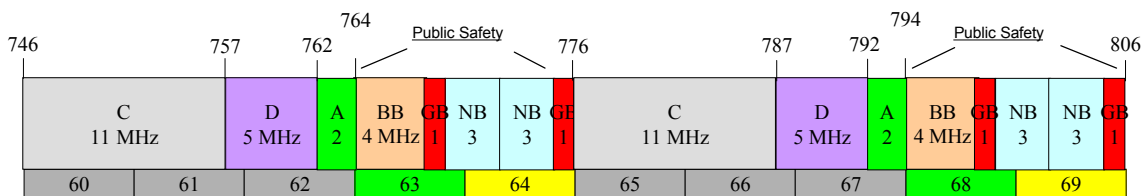
* Impact depicted as compared to Band Plan 3 in the rest of the nation.



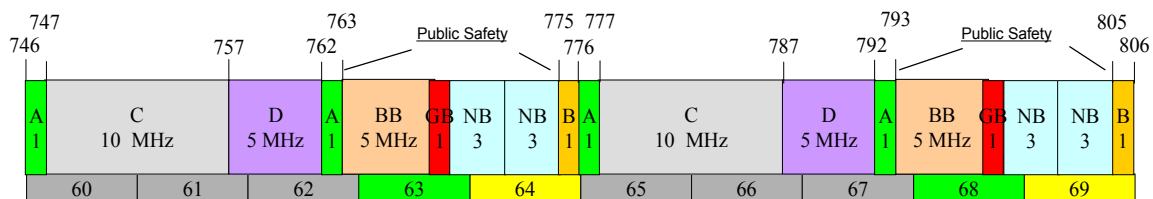
Grandfathering Proposal #1 – Nationwide



Grandfathering Proposal #2 – Albuquerque, Des Moines, and Gulf of Mexico ONLY



Grandfathering Proposal #3 – Albuquerque, Des Moines, and Gulf of Mexico ONLY



Grandfathering Proposal #3 – Buffalo ONLY